

Customs Bulletin

Regulations, Rulings, Decisions, and Notices
concerning Customs and related matters



and Decisions

of the United States Court of Customs and
Patent Appeals and the United States
Customs Court

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DEPARTMENT OF THE TREASURY
U.S. Customs Service

Customs Bulletin

Abstracts, Rulings, Notices, and Decisions
Issued by the U.S. Customs Service

and Decisions

U.S. Customs Service
Washington, D.C. 20229



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U.S. Customs Service

(T.D. 74-52)

Ports of entry—Customs Regulations amended

Changes in the Customs Field Organization, section 1.2(c), Customs Regulations, amended

DEPARTMENT OF THE TREASURY,
Washington, D.C., January 31, 1974.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—UNITED STATES CUSTOMS SERVICE

PART 1—GENERAL PROVISIONS

On October 18, 1973, a notice of a proposal to revoke the Customs port of entry designation of Elizabeth City, North Carolina, in the Wilmington, North Carolina, Customs district (Region IV) was published in the Federal Register (38 FR 28946). There were no comments received in response to the notice.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), the designation of Elizabeth City, North Carolina, as a Customs port of entry is hereby revoked.

To reflect this change, the table in section 1.2(c) of the Customs Regulations is amended by deleting "Elizabeth City" from the column headed "Ports of entry" in the Wilmington, N.C., district (Region IV).

(Sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended; 19 U.S.C. 1, 2)
Effective date. This amendment shall be effective 30 days after publication in the Federal Register.

(ADM-9-03)

JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[Published in the Federal Register February 8, 1974 (39 FR 4876)]

(T.D. 74-53)

*Vessels in foreign and domestic trades—Customs Regulations
amended*

Exemption from entry and clearance requirements and Customs charges for yachts of Turks and Caicos Islands, St. Vincent, and the Cayman Islands; section 4.9(b), Customs Regulations, amended

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—UNITED STATES CUSTOMS SERVICE

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

The Department of State advised the Department of the Treasury on June 21, 1973, that yachts of the United States are permitted to cruise in the territorial waters of Turks and Caicos Islands, St. Vincent (including the territorial waters of the Northern Grenadine Islands), and the Cayman Islands, all Caribbean entities under British jurisdiction, without charges for entering or clearance, dues, duty per ton, or tonnage taxes.

Pursuant to section 5 of the act of May 28, 1908, as amended (section 5, 35 Stat. 425, as amended; 46 U.S.C. 104), following a finding by the Secretary of the Treasury that a foreign nation has granted the above-described exemptions to yachts of the United States, the Commissioner of Customs may issue cruising licenses to yachts of that nation.

It has been established to the satisfaction of the Secretary of the Treasury that yachts of the United States are granted the above described reciprocal privileges by Turks and Caicos Islands, St. Vincent, and the Cayman Islands.

Accordingly, section 4.94(b) of the Customs Regulations is amended by the insertion of "(including Turks and Caicos Islands, St. Vincent (including the territorial waters of the Northern Grenadine Islands), and the Cayman Islands)" after "Great Britain" in the list of countries granting the previously-described reciprocal privileges to yachts of the United States. Yachts of the foreign countries listed in section 4.94(b) may be issued cruising licenses by the Commissioner of Customs.

(Sec. 3, 23 Stat. 119, as amended, sec. 5, 35 Stat. 425, as amended; 5 U.S.C. 301, 46 U.S.C. 3, 104)

There is statutory authority for this exemption after a finding has been made that such reciprocity exists. Therefore, good cause exists

for dispensing with notice and public procedure thereon as unnecessary, and good cause is found for the amendment to become effective on the earliest date possible under 5 U.S.C. 553.

Effective date. This amendment shall become effective on the date of its publication in the Federal Register.

(ADM-9-03)

VERNON D. ACREE,
Commissioner of Customs.

Approved January 31, 1974:

JAMES B. CLAWSON,

Acting Assistant Secretary of the Treasury.

[Published in the Federal Register February 8, 1974 (39 FR 4876)]

(T.D. 74-54)

Customs warehouses, container stations, and control of merchandise therein—Customs Regulations amended

Section 19.45, Customs Regulations, amended to permit container station operators to use their own vehicles to transfer merchandise from the place of unloading to their stations

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—UNITED STATES CUSTOMS SERVICE

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS, AND CONTROL OF
MERCHANDISE THEREIN

On August 22, 1973, there was published in the Federal Register (38 FR 22554) notice of a proposed amendment to section 19.45 of the Customs Regulations (19 CFR 19.45), which would permit container station operators to use their own vehicles to transfer merchandise from the place of unloading to their stations. No comments were received.

Section 19.45 of the Customs Regulations, added by T.D. 72-68 (37 FR 4186), provides that merchandise may be transferred to a container station only by a bonded cartman or bonded carrier. Before the addition of section 19.45, however, some container station operators used their own vehicles to cart merchandise from the place of unloading

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to their stations. It has been determined that the movement of cargo to container stations would be facilitated by again allowing this practice.

Accordingly, section 19.45 of the Customs Regulations (19 CFR 19.45) is amended to read as follows:

§ 19.45 Transfer of merchandise, approval and method.

Approval of the application by the district director shall serve as a permit to transfer the container and its contents to the station. Except when the container station operator is moving the merchandise to his own station by his own vehicle, the merchandise may only be transferred to a container station by a bonded cartman or bonded carrier. The station operator, cartman or carrier shall receipt for the merchandise on both copies of the application.

(R.S. 251, as amended, secs. 551, 565, 624, 46 Stat. 742, as amended, 747, as amended, 759; 19 U.S.C. 66, 1551, 1565, 1624)

This amendment will eliminate a requirement which has been found to be unnecessarily restrictive. Therefore, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

Effective date. This amendment shall become effective on the date of its publication in the Federal Register.

(ADM-9-03)

VERNON D. ACREE,
Commissioner of Customs.

Approved February 1, 1974:

JAMES B. CLAWSON,

Acting Assistant Secretary of the Treasury.

[Published in the Federal Register February 8, 1974 (39 FR 4876)]

(T.D. 74-55)

Foreign currencies—Certification of rates

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 29, 1974.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 74-40 for the following countries. Therefore, as to entries covering merchandise

exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Denmark krone:

January 21, 1974	\$0. 1450
January 22, 1974	. 1473
January 23, 1974	. 1467
January 24, 1974	. 1485

France franc:

January 21, 1974	\$0. 1919
January 22, 1974	. 1918
January 23, 1974	. 1910
January 24, 1974	. 1915
January 25, 1974	. 19065

India rupee:

January 23, 1974	\$0. 1160
January 24, 1974	. 1160
January 25, 1974	. 1160

Ireland pound:

January 21, 1974	\$2. 1735
January 22, 1974	2. 1820
January 23, 1974	2. 1850

Italy lira:

January 21, 1974	\$0. 001490
January 22, 1974	. 001486
January 23, 1974	. 001475
January 24, 1974	. 001486
January 25, 1974	. 001489

Japan yen:

January 21, 1974	\$0. 003275
January 22, 1974	. 003280
January 23, 1974	. 003294
January 24, 1974	. 003332
January 25, 1974	. 0033355

Netherlands guilder:

January 23, 1974	\$0. 3317
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Norway krone:

January 21, 1974	\$0. 1639
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Portugal escudo:

January 21, 1974-----	\$0.0357
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*Sri Lanka rupee:

January 17, 1974-----	\$0.1425
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United Kingdom pound:

January 21, 1974-----	\$2.1735
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January 22, 1974-----	2.1820
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January 23, 1974-----	2.1850
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(LIQ-3-O:A:E)

JAMES D. COLEMAN,
*Acting Director, Appraisement
and Collections Division.*

[Published in the Federal Register February 8, 1974 (39 FR 4932)]

(T.D. 74-56)

Ports of entry—Customs Regulations amended

Changes in the Customs Field Organization, section 1.2(c), Customs Regulations,
amended

DEPARTMENT OF THE TREASURY,
Washington, D.C., February 1, 1974.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—UNITED STATES CUSTOMS SERVICE

PART 1—GENERAL PROVISIONS

On October 18, 1973, a notice of a proposal to revoke the Customs port of entry designation of Elkin, North Carolina, in the Wilmington, North Carolina, Customs district (Region IV) was published in the Federal Register (38 FR 28946). There were no comments received in response to the notice.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), the designation of Elkin, North Carolina, as a Customs port of entry is hereby revoked.

*Not previously reported.

To reflect this change, the table in section 1.2(c) of the Customs Regulations is amended by deleting "Elkin (E.O. 10042, Mar. 10, 1949; 14 F.R. 1155)." from the column headed "Ports of entry" in the Wilmington, North Carolina, Customs district (Region IV).

(Sec. 1, 37 Stat. 434, Sec. 1, 38 Stat. 623, as amended; 19 U.S.C. 1, 2)

Effective date. This amendment shall be effective 30 days after publication in the Federal Register.

(ADM-9-03)

JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[Published in the Federal Register February 12, 1974 (39 FR 5312)]

Protest Review Decisions

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., February 1, 1974.

The following are decisions made by the United States Customs Service on protests filed under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), and with respect to which further review was requested and granted under sections 174.23 and 174.24, Customs Regulations.

LEONARD LEHMAN,
*Assistant Commissioner,
Regulations and Rulings.*

January 2, 1974

PRD 74-1

*Area Director of Customs
New York Seaport
New York, New York 10048*

DEAR SIR:

Re: Decision on Application for Further Review of Protest No.
10012001740

This decision concerns the protest filed against your decision in liquidating on October 22, 1971, entry Nos. 204639, 209715, 209716, and 209717, covering the importation of stereo chassis and classifying them under the provision for solid-state (tubeless) radio receivers in item 685.23, Tariff Schedules of the United States (TSUS).

The merchandise is invoiced as "AMP-4 1.5 Watt FM/AM/MPX Stereo Chassis," and is described by the protestant as a chassis with AM/FM tuners, amplifiers, and station selector dial. The protestant also states that the wiring includes leads for a phonograph, speakers, and a tape player, and that after importation, the imported article is placed into a suitable housing, a phonograph and tape player are attached, and speakers are supplied.

The protestant claims that the imported article is not an unfinished radio because it lacks speakers, and that if it is to be considered radio reception apparatus, it should be classified as parts of radio reception apparatus under item 685.25, TSUS. The protestant further claims that if the imported article is considered unfinished rather than as parts, then it is an unfinished combination machine containing a tape player, and should be classified under the provisions in item 678.50, TSUS, for machines not specially provided for elsewhere, or, alternatively, under the provision in item 685.30, TSUS, for radio-phonograph combinations, since it is more than radio reception apparatus.

The information furnished by the protestant is consistent with the previous Customs evaluation that the merchandise in question includes most of the parts necessary for radio reception except speakers. Therefore, the issues presented are whether the tuner-amplifier combination, if used as a component in a larger sound system, including a turntable, tape deck, and speakers, as the protestant has indicated, is classifiable as a part of the larger system or as an unfinished version of the larger system, and, if not, whether the tuner-amplifier is classifiable as radio reception apparatus even though it was imported without speakers.

Whether the tuner-amplifier combination is an unfinished radio-photograph-tape player combination, as the protestant contends, depends upon whether the tuner component contains the essential parts comprising the larger system. In our opinion, the turntable and tape player are also essential components, and their absence prevents the tuner-amplifier from being classifiable, by itself, or with a wire harness for connection to the other components, as an unfinished version of the larger system under either item 678.50 or item 685.30. Therefore, the tuner-amplifier must be regarded as a part of the larger system.

However, under the rule of construction in General Headnote 10(ij), TSUS, a provision for parts of an article does not prevail over a specific provision for the parts. Accordingly, if item 685.23 is a specific provision for the tuner-amplifier, classification under that provision must prevail even though the article is used as a part of a larger system. This provision, of course, would not be a specific provision for the merchandise if it does not cover radio reception apparatus lacking speakers, or if the addition of a wire harness warranted application of the "more than" rule.

The classification of tuner-amplifier combinations lacking speakers as radio reception apparatus is well established and provided for under item 685.23. This classification recognizes the designation of these components in the modular sound systems market as receivers and their sale as commercial entities independent of speakers. In our opinion, the classification is sustainable on the commercial designation

principle, and it is unnecessary to discuss whether a receiver lacking speakers is or is not an unfinished receiver. It is also our opinion that the wire harness represents an incidental feature constituting an insufficient basis for application of the "more than" rule. Consequently, we find that classification under item 685.23 must also prevail over classification under the parts provisions in either item 678.50 or item 685.25.

For the foregoing reasons, you are hereby directed to deny the protest in full.

Sincerely yours,

SALVATORE E. CARAMAGNO,
Director
Classification and Value
Division

January 2, 1974

PRD 74-2

Acting District Director of Customs
New Orleans, Louisiana 70130

DEAR SIR:

Re: Decision on Application for Further Review of Protest No.
20022002049

This decision concerns a protest filed against the decision of the District Director, denying a request by the customhouse broker, W. R. Zanes & Co., of La., Inc., for substitution of the name of Nooter Corporation, St. Louis, Missouri, for A. W. Horton & Co., Inc., Los Angeles, California, on temporary importation under bond (T.I.B.) entry No. 224 of April 14, 1971. The above request was made pursuant to section 520(c)(1) of the Tariff Act of 1930, as amended, which authorizes the district director, upon timely application, to take appropriate action to correct a clerical error, mistake of fact, or other inadvertence, adverse to the importer, which does not amount to an error in the construction of a law, provided the alleged clerical error, mistake of fact, or other inadvertence is manifest from the record or established by documentary evidence. The claim in this case involved an alleged mistake by the broker as to the name of the actual importer.

The licensed broker who signed the bond on behalf of A. W. Horton & Co., Inc., was aware of the fact that, pursuant to item 864.05 of the Tariff Schedules of the United States, a T.I.B. entry may not be filed with respect to articles imported for sale or sale on approval in the United States. The letter of March 24, 1971, to the broker from A. W. Horton & Co. states that the 20 cases of copper condenser tubes in

question has been sold to the Nooter Corporation of St. Louis, Missouri, for use in the manufacture of heat exchangers, and instructs the broker to file a T.I.B. entry in their own name. Our review of the uniform commercial code indicates that, in the absence of a contractual provision to the contrary, the sale of the merchandise in question was not completed until the merchandise was delivered to the Nooter Corporation in St. Louis. Therefore, A. W. Horton & Co., Inc., the actual owner and importer of the merchandise, was the proper party to issue instructions to the broker regarding the entry of the merchandise.

Under these circumstances, we are of the opinion that there was no mistake of fact or other inadvertence manifest from the record or established by documentary evidence upon which to base a decision to grant the requested relief. A mistake by the broker regarding the time the sale was completed for purposes of determining whether or not the articles were imported for sale or sale on approval in the United States would amount to an error in the construction of a law, for which no relief could be granted pursuant to section 520(c) (1) of the tariff act.

Accordingly, you are hereby directed to deny the protest in full.
Your file is returned herewith.

Sincerely yours,

RAYMOND E. TURNER,
Director,
Entry Procedures and Penalties
Division.

January 2, 1974

PRD 74-3

District Director of Customs
Seattle, Washington 98104

DEAR SIR:

Re: Decision on Application for Further Review of Protest No.
30013000001

This protest is against your decision in the liquidation on December 22, 1972, of the following entries at the port of Seattle: Nos. 108153 and 108154 of September 18, 1972, and No. 109146 of September 25, 1972.

The protest involves merchandise which was classified by Customs officials under the provision for other men's or boys' wearing apparel, not ornamented, of man-made fibers, and not knit, in item 380.84, Tariff

Schedules of the United States (TSUS), with duty at the rate of 25 cents per pound plus 27.5 percent ad valorem. The importer claims that the merchandise is properly classifiable under the provision for garments designed for rainwear, hunting, fishing, or similar uses, wholly or almost wholly of fabrics which are coated or filled, or laminated, with rubber or plastics, and of man-made fibers, in item 376.56, TSUS, with duty at the rate of 16.5 percent ad valorem.

The merchandise involved in this protest consists of men's snorkel-type parkas. The outer shells of the parkas are made from plain woven nylon fabric that has had a transparent plastics material applied to its inner surface. The plastics material is not visible to the naked eye and a tested sample of the fabric was determined not to be waterproof.

Hooded garments of the type covered by the protested entries have been considered by the Customs Service in the past to qualify as garments which are designed for rainwear, hunting, fishing, or similar uses. However, in order to be classifiable in item 376.56, the additional requirement exists that the garments be wholly or almost wholly of fabrics which are coated or filled, or laminated, with rubber or plastics. Since the outer shells of the parkas in question are not laminated, the plastics material on the shells must constitute a coating or filling for tariff purposes in order for item 376.56 to be applicable.

Headnote 2(a), Part 4C, Schedule 3, TSUS, provides that for the purposes of the tariff schedules, the term "coated or filled" refers to fabrics on which the coating or filling visibly and significantly affects the surface or surfaces thereof otherwise than by a change of color. Since the plastics material on the outer shells of the parkas is not visible and does not make the parkas waterproof, we conclude that the outer shell fabric is not coated or filled for tariff purposes and that the merchandise in question is properly classifiable in item 380.84.

The basis for the contention that the garments are classifiable in item 376.56, rests on a ruling the importer received from this office and dated February 3, 1972, in which it was held that similar hooded garments, made from fabric as represented by a sample swatch which was submitted at that time, would be classifiable in item 376.56. The importer now states that the garments covered by the protested entries are made from the same material that was the subject matter of our 1972 ruling.

By letter of February 20, 1973, to the same importer, this office ruled that three submitted swatches of fabrics were not coated or filled for tariff purposes because the coating or filling of plastics material on each was not visible otherwise than by a change in color.

This office generally retains swatches of fabric that have been the subject of our rulings. In comparing the fabric which was the subject matter of our 1972 letter with the fabric that forms the outer shell of the garments which are the subject matter of the protested entries, it is apparent that the plastic coatings or fillings on the two fabrics are not the same. However, the outer shell material of the instant merchandise is, if not identical, very similar to one of the fabrics that was ruled not to be coated or filled in our February 20th letter. Therefore, the binding ruling issued by this office on February 3, 1972, is not applicable to the merchandise which is covered by the protested entries.

On the basis of the above, it appears that the merchandise was properly classified in item 380.84, and you are hereby directed to deny the protest in full.

Sincerely yours,

SALVATORE E. CARAMAGNO,
Director
Classification and Value
Division

Decisions of the United States Customs Court

United States Customs Court

One Federal Plaza
New York, N.Y. 10007

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Custom Rules Decision

(C.R.D. 74-1)

NADEL & SONS TOY CORP. ET AL. *v.* UNITED STATES

*Opinion and Order on Defendant's Motion
To Dismiss for Lack of Prosecution*

Court Nos. 66/55028, etc.

[Motion denied on condition;
otherwise granted.]

(Dated January 21, 1974)

Serko & Sklaroff for the plaintiffs.

Irving Jaffe, Acting Assistant Attorney General (Robert B. Silverman, trial attorney), for the defendant.

NEWMAN, Judge: Defendant has moved to dismiss these 23 actions for lack of prosecution. The basis of defendant's motion is that these

suits were not removed from the October 1970 reserve file within the two-year period provided by rule 14.6(c), and accordingly should be dismissed for lack of prosecution pursuant to rules 8.3(b)(1) and 14.6(c).

Pursuant to rules 14.6(a) and 14.9(c), effective October 1, 1970,¹ these cases were among approximately 177,000 actions pending before the Customs Court which were placed in a classification designated as the October 1970 reserve file. Under rule 14.6(c) a period of two years, to and including October 31, 1972, was allowed during which time pending suits might be removed from the reserve file, or they would be dismissed automatically by the clerk for lack of prosecution upon the expiration of the time provided. Under rule 14.6(b) an action could be removed from the October 1970 reserve file by filing a complaint. It appears that on October 30 and 31, 1972 complaints were filed in all these cases, except in Court No. 69/19366.

Court No. 69/19366 was in the suspension disposition file, rather than in the reserve file; and inasmuch as that case was not removed from the suspension disposition file within the period of time fixed by the court, the case is now in the process of automatic dismissal by the clerk pursuant to the provisions of rule 14.8(c).² Hence, as to Court No. 69/19366, defendant's motion is moot and therefore is denied.

Concerning the other 22 cases, in which complaints have been filed, defendant contends that the merchandise described in the complaints is not embraced by the protests. An examination of these protests confirms defendant's contention.³

Fundamentally, this court has jurisdiction only of the merchandise embraced by the protests; it follows that the complaints filed under rule 4.4 may not include goods not originally involved in the protests. *Superscope, Inc. v. United States*, 71 Cust. Ct. —, C.R.D. 73-37 (1973); also cf. *Distributors Import Co. v. United States*, 71 Cust. Ct. —, C.R.D. 73-35 (1973). However, it has been held that a complaint which refers to merchandise not covered by the protest may, if permitted by the court, be amended to conform to the scope of the protest. *Superscope, Inc., supra*. Consequently, I conclude that these cases have been in fact and law removed from the

¹ October 1, 1970 is the effective date both of the Customs Courts Act of 1970, Pub. L. 91-271, and the present court rules.

² Rule 14.8(c) provides:

"(c) Dismissal for Lack of Prosecution: An action which is not removed from the suspension disposition file within a fixed period of time shall be dismissed for lack of prosecution, and in the absence of the filing of a motion under paragraph (e) of this rule the clerk shall enter an order of dismissal without further direction of the court. * * *

³ The complaints refer to "mustaches, masks and disguise sets with or without other words of description". The protests, however, cover a diversity of other articles, but do not include the merchandise described in the complaints.

October 1970 reserve file pursuant to rule 14.6(b) by the filing of complaints, albeit defective respecting the merchandise covered thereby. Furthermore, I see no serious prejudice to defendant if plaintiffs are given an opportunity to file amended complaints to correct the defect complained of.

Accordingly it is hereby **ORDERED**:

1. Defendant's motion to dismiss Court No. 69/19366 is denied, as moot.

2. a. Defendant's motion to dismiss the remaining 22 actions for lack of prosecution is denied at this time.

b. Plaintiffs shall have a period of thirty days from and after the date of service of this order within which to file 22 amended complaints, each complaint covering only the merchandise referred to in each of the protests.

c. If upon the expiration of said thirty-day period no such amended complaints shall have been filed by plaintiffs, these 22 actions shall be dismissed for lack of prosecution, without any further proceeding. In such event, the clerk is directed to enter an order of dismissal without further order.

Decisions of the United States Customs Court

Abstracts Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, January 28, 1974.

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

VERNON D. ACREE,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate			
P74/62	Rao, J. January 24, 1974	Amity Fabrics, Inc., et al.	69/16512, etc.	Par. 904(c) At rates provid- ed therein, de- pending upon average yarn numbers	Par. 907 11%		Rohner, Gehrig & Co. v. U.S. (C.D. 4080)	New York Waterproof cotton suede cloth ("Metcor" or "Velutina")

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD		BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate	Par. or Item No. and Rate	Par. or Item No. and Rate		
P74/63	Rao, J. January 24, 1974	Lollytoys, Ltd.	64/8342, etc.	Par. 919 25%	Par. 919 20%	Item 985.22 12.5%	Item 985.22 12.5%	The Nissho American Corp. v. U.S. (C.D. 4003)	New York Shirt portions of corduroy lounge sets; entreties New York Earphones
P74/64	Ford, J. January 24, 1974	Holmar International Corp. et al.	67/86730, etc.	Item 684.70 15%	Item 684.70 15%	Item 114.50 17.5%	Item 114.50 17.5%	Summary judgment	New York Earphones
P74/65	Lands, J. January 24, 1974	Border Brokerage Co., Inc.	66/57652, etc.	Item 114.50 17.5%	Item 114.50 17.5%	Item 166.40 24 per gal.	Item 166.40 24 per gal.	Border Brokerage Company Inc. v. U.S. (C.D. 3590)	Seattle "Skeena" brand canned clam nectar
P74/66	Lands, J. January 24, 1974	BSR (USA), Ltd	70/66632	Item 685.52 10%	Item 685.52 10%	Varco CN 65D Cartridges in entry 815465: Item \$87.00, with their cost or value of \$2,783, being deducted from the appraised value of the imported phonographs	Varco CN 65D Cartridges in entry 815465: Item \$87.00, with their cost or value of \$2,783, being deducted from the appraised value of the imported phonographs	Judgment on the pleadings	New York American goods returned

Free of duty

P74/67	Landis, J. January 24, 1974	Harpers Int'l, Inc.	67/51067	<p>Par. 1331 20% (cases)</p> <p>Par. 353 15% (earphones)</p>	<p>Par. 353 12½% (cases and earphones under entry WH 151081 Protest overruled as to entry WH 151678</p>	<p>Judgment on the pleadings</p>	<p>New York Cases (entireties with radios) and earphones (articles having essential electrical features), imported with transistor radios</p>
P74/68	Landis, J. January 24, 1974	Kaysona Intl., Ltd., et al.	67/51062, etc.	<p>Item 651.75 At various ad valorem rates as set forth in schedule A, attached to decision and judgment, in column headed "Assessed Ad Valorem Equivalent Rate"</p>	<p>Item 651.75 At highest specific or compound rate for any article in the set and from which the ad valorem rate was computed; which compound rate should have been assessed once against each article or utensil in the set, such rate is set forth in said schedule in column headed "Claimed Rate"</p>	<p>Import Associates of America et al. v. U.S. (C.A.D. 981)</p>	<p>Los Angeles Flatware sets</p>

CUSTOMS COURT

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD		BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate	Par. or Item No. and Rate	Par. or Item No. and Rate		
F74/69	Landis, J. January 24, 1974	New York Merchandise Co., Inc.	69/14643	Item 748.20 28.5%	Item 774.00 15%			Judgment on the pleadings	San Diego Curtain hooks
F74/70	Landis, J. January 24, 1974	Noreca Corporation	70/27890	Item 657.35 13.5% plus 1¢ per lb.	Item 654.00 9%			Judgment on the pleadings	New York Brass shower heads
F74/71	Landis, J. January 24, 1974	Toyomenka, Inc.	61/29044	Par. 405 28%	Par. 1403 12.5%			Judgment on the pleadings Borrico Sumatra Trading Co., Inc. v. U.S. (C.D. 3880)	San Francisco Wood veneers laminated to a core of hard board
F74/72	Landis, J. January 24, 1974	United China & Glass Co.	59/14660, etc.	Par. 212 60% or 45% and 10¢ per doz. pes.	Par. 212 45%			W. Kay Company, Inc. v. U.S. (C.D. 2484) New York Merchandise Co., Inc. v. U.S. (C.D. 3463)	San Francisco Decorated porcelain cups and saucers
F74/73	Landis, J. January 24, 1974	United China & Glass Co.	67/23398, etc.	Item 651.75 At various ad valorem equiv- alents set out in sched- ule attached to decision and judg- ment in col- umn headed "Assessed Rate"	Item 651.75 At appropriate compound rate set forth in said sched- ule			Import Associates of Amer- ica et al. v. U.S. (C.A.D. 961)	New Orleans Flatware sets, barbeque sets, tool sets, etc.

P7474	Landis, J. January 24, 1974	United Silver & Cutlery Co. et al.	65/24454, etc.	Item 651.75 Various ad valorem equivalent rates	Item 651.75 At appropriate compound rate set forth in schedule of cases attached to decision and judgment	Import Associates of Amer- ica et al. v. U.S. (C.A.D. 981)	Los Angeles Flatware sets, barbeque sets, tool sets, etc.
P7475	Landis, J. January 24, 1974	United Silver & Cutlery Co. et al.	66/66843, etc.	Item 651.75 Various ad valorem equivalent rates	Item 651.75 At appropriate compound rate set forth in schedule of cases attached to decision and judgment	Import Associates of Amer- ica et al. v. U.S. (C.A.D. 981)	Los Angeles Flatware sets, barbeque sets, tool sets, etc.
P7476	Landis, J. January 24, 1974	Westwood Import Co.	71-8-00007	Item 772.06 16.5¢ per lb. plus 13.5% 14.7¢ per lb. plus 11.5%	Item 772.15 13.5% or 11.5%	Judgment on the pleadings	San Diego Segmented hors d'oeuvre dishes
P7477	Landis, J. January 24, 1974	Westwood Import Co.	71-8-00008	Item 203.30 13.9¢ per lb. plus 11%	Item 206.97 11.5%	Judgment on the pleadings	San Diego Saladbowls
P7478	Re, J. January 24, 1974	A. Perlman	68/19309	Item 772.15 17%	Item 772.35 12.5%	Venustianaire Corp. of Amer- ica v. U.S. (C.A.D. 1064)	New York Mattress and pillow covers

Decisions of the United States Customs Court

Abstracts

Abstracted Reappraisal Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	UNIT OF VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R74/63	Landis, J. January 24, 1974	Oloha Airlines, Inc.	R67/20807	Export value	\$2,550,796	Judgment on the plead- ings	Minneapolis BAC twin jet pas- senger aircraft
R74/64	Landis, J. January 24, 1974	American Honda Motor Co., Inc.	R71/83	Constructed value	\$772	Judgment on the plead- ings	New York Motorcycles, model No. CB 750
R74/65	Landis, J. January 24, 1974	American Honda Motor Co., Inc.	R71/84	Constructed value	Model No. CT 70: \$159.50 Model No. CT 90K1: \$166	Judgment on the plead- ings	New York Motorcycles

R74/66	Landis, J. January 24, 1974	RCA Corporation	R70/8338, etc.	Constructed value	Radios (exclusive of earphones, batteries, instruction books and switches): Models RZM 146, RZM 146A and RZM 146B, \$6.08 each, net packed; Models RZM 170, RZM 170A, RZM 170E and RZM 170B, \$11.64 each, net packed; Models RZM 151 and RZM 151E, \$8.78 each, net packed.	Judgment on the pleadings	Los Angeles Radios
R74/67	Watson, J. January 24, 1974	Topco Import & Export, Inc.	R68/6599	Constructed value	Radios: \$1.53 each, net packed Earphones: \$0.12 each, net packed Batteries: \$0.10 each, net packed	Judgment on the pleadings	Miami Transistor radios with earphones and batteries
R74/68	Re, J. January 24, 1974	Borneco Sumatra Trading Co., Inc.	R60/22845, etc.	Export value: Net appraised value less 7¼% net packed	Not stated	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Charleston Japanese plywood
R74/69	Re, J. January 24, 1974	Herbert B. Moller	R61/15683	Export value: Net appraised value less 7¼% net packed	Not stated	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Jacksonville (Tampa) Japanese plywood

**Judgments of the United States Customs Court
in Appealed Cases**

JANUARY 22, 1974

APPEAL 74-10.—United States v. F. W. Myers & Co., Inc.—HOUSEHOLD EFFECTS OF RETURNING RESIDENTS—AFFIDAVIT REQUIRED BY CUSTOMS REGULATIONS—LATE FILING PERMITTED IN ABSENCE OF WILLFUL NEGLIGENCE.—C.D. 4431. Appeal dismissed December 19, 1973.

JANUARY 25, 1974

APPEAL 5510.—Barnebey-Cheney Co. v. United States.—“SCRAP CHARCOAL FROM GASMASKS”—GAS-ABSORBING CHAR—WASTE—TRADE AGREEMENT.—C.D. 4343 reversed November 21, 1973. C.A.D. 1110.

Tariff Commission Notices

Investigations by the United States Tariff Commission

DEPARTMENT OF THE TREASURY, February 7, 1974.

The appended notices relating to investigations by the United States Tariff Commission are published for the information of Customs officers and others concerned.

VERNON D. ACREE,
Commissioner of Customs.

[337-32]

CYLINDER BORING MACHINES AND BORING BARS AND COMPONENTS THEREOF

Notice of dismissal of investigation

On the basis of a request from all parties appearing in this investigation, the Tariff Commission (Commissioners Leonard and Young dissenting) on January 30, 1974, dismissed investigation 337-22, regarding alleged unfair methods of competition and unfair acts in the importation and sale of certain cylinder boring machines and boring bars the construction features of which are alleged to be embraced within the claims of U.S. Patents Nos. 3,260,136 and 3,273,423. Notice of the institution of the investigation was published in the *Federal Register* of January 24, 1973 (38 F.R. 2360).

By order of the Commission:

KENNETH R. MASON,
Secretary.

Issued February 1, 1974.

[TEA-F-58]

PETITION OF NINA FOOTWEAR CO., INC., FOR A DETERMINATION UNDER SECTION 301(c) (1) OF THE TRADE EXPANSION ACT OF 1962

Notice of investigation

On the basis of a petition filed under section 301(a) (2) of the Trade Expansion Act of 1962 on behalf of Nina Footwear Co., Inc., Long

Island City, New York, the United States Tariff Commission, on January 31, 1974, instituted an investigation under section 301(c) (1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in items 700.45 and 700.55 of the Tariff Schedules of the United States) produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the *Federal Register*.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, N.W., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

KENNETH R. MASON,
Secretary.

Issued February 1, 1974.

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